

EXHIBIT 5

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FOUR

COURT OF APPEAL - SECOND DIST.

FILED

AUG 8 2007

JOSEPH A. LANE

Clerk

Deputy Clerk

In re

MARCO MARROQUIN,

on Habeas Corpus.

) B196761

) (Super.Ct.No. TA016787)

) (Gary E. Daigh, Judge)

ORDER

THE COURT:*

The petition for writ of habeas corpus has been read and considered.

The petition is denied. Denial of parole may be based solely upon the particular circumstances of the inmate's commitment offense. The record shows that the circumstances of petitioner's second-degree murder offense "exceed the minimum elements necessary to sustain a conviction" of second-degree murder. (*In re Dannenberg* (2005) 34 Cal.4th 1061, 1070-1071, 1094 - 1095.) The motive for the offense was very trivial, and petitioner deliberately returned to the bar with a loaded gun and callously shot the un-armed victim.

* WILLHITE, Acting P. J.,

MANELLA, J.,

SUZUKAWA, J.

Office of the Attorney General
300 South Spring Street
Fifth Floor, North Tower
Los Angeles, CA 90013

Case Number B196761
Division 4
In Re: Marco Marroquin
on
Habeas Corpus